BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LUCILE DALY-PITTS Claimant)
VS.)) Docket No. 250,052
HEALTH CARE MANAGEMENT OF KANSAS d/b/a WINDSOR PLACE Respondent)))
AND)
THOMAS MCGEE)
Insurance Carrier)

ORDER

Respondent appeals the preliminary hearing Order of Administrative Law Judge Jon L. Frobish dated October 10, 2001. The Administrative Law Judge authorized Porter James Clark, D.D.S., to perform the recommended dental work on claimant, finding that claimant's dental problems arose out of and in the course of her employment with respondent from an automobile accident on November 1, 1999.

Respondent contends claimant's dental problems did not arise out of the motor vehicle accident, as claimant failed to mention those dental problems for a substantial period of time after the accident. In fact, the dental problems and the request for payment for those dental problems was not raised by claimant until an attempted settlement hearing on June 19, 2001.

As a result of claimant's request for payment of the dental treatment, the settlement hearing was continued and the matter proceeded to preliminary hearing before Judge Frobish, which resulted in the appealed Order.

Whether claimant's injuries and her need for dental treatment stemmed from the automobile accident of November 1, 1999, is the only issue before the Board at this time.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purposes of preliminary hearing, the Appeals Board finds the Order of Administrative Law Judge Jon L. Frobish dated October 10, 2001, should be affirmed.

Respondent contends claimant failed to prove that her dental problems are, in any way, associated with the automobile accident of November 1, 1999. However, the only expert opinion provided for the Board's consideration is that of Porter James Clark, D.D.S., of Independence, Kansas. Dr. Clark testified in this matter and also provided to respondent's attorney a report dated August 25, 2001.

Dr. Clark acknowledged that he was provided no medical records regarding this lady's injury or ongoing treatment. He did, however, provide an opinion regarding the cause of claimant's ongoing dental problems. Dr. Clark was less than complimentary of the emergency room physicians and medical staff who provided both initial and follow-up treatment for claimant. Dr. Clark was very critical of those doctors for not diagnosing the fact that claimant suffered injuries to her teeth in the automobile accident. He was most concerned about the fact claimant lost a crown and no health care provider took the initiative to find out whether the crown was lost somewhere in the vicinity or whether a more serious condition had occurred and claimant had, in some way, ingested or inhaled the crown.

Dr. Clark opined that claimant's ongoing dental problems were related to the automobile accident of November 1, 1999. No other opinion exists in the record. Respondent argues that claimant failed to notify the health care providers of her tooth problems before the settlement hearing. While this delay is somewhat confusing, nevertheless, the Board finds that claimant's ongoing dental problems are, based upon the opinion of Dr. Clark, a result of the automobile accident of November 1, 1999.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish, dated October 10, 2001, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this	$_{ t L}$ day of ${ t L}$	December,	2001.
------------	---------------------------	-----------	-------

BOARD MEMBER

c: Brian D. Pistotnik, Attorney for Claimant Christopher J. McCurdy, Attorney for Respondent Jon L. Frobish, Administrative Law Judge Philip S. Harness, Director